

AMENDED IN SENATE APRIL 8, 1997

SENATE BILL

No. 826

Introduced by Senator Greene

February 26, 1997

An act to amend Sections 160, 1601, 1616.5, and 1742 of the Business and Professions Code, and to amend Section 830.3 of the Penal Code, relating to dentistry.

LEGISLATIVE COUNSEL'S DIGEST

SB 826, as amended, Greene. Dentistry: Board of Dental Examiners of California and Committee on Dental Auxiliaries.

Existing law provides that the Chief of the Division of Investigation in the Department of Consumer Affairs and all investigators of that division, the Medical Board of California, and the Board of Dental Examiners have the authority of peace officers while engaged in exercising the powers granted or performing the duties imposed upon them or the division in investigating the laws administered by the various boards comprising the department or commencing directly or indirectly any criminal prosecution arising from any investigation conducted under these laws.

Existing law provides that this authority as a peace officer extends to any place in the state for the purpose of performing their primary duty or making an arrest as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, or in a state of emergency. Existing law authorizes these peace

officers to carry firearms only if authorized and under those terms and conditions as specified by their employing agencies.

This bill would eliminate the peace officer authority granted to investigators of the Board of Dental Examiners under these provisions.

Existing law vests in the Board of Dental Examiners of California in the Department of Consumer Affairs the administration of the law regulating the practice of dentistry and authorizes the board to appoint an executive officer. Under existing law, these administrative authority provisions become inoperative on July 1, 1998, and are repealed on January 1, 1999.

This bill would extend these inoperative and repeal dates to July 1, ~~2002~~ 2004, and January 1, ~~2003~~ 2005, respectively.

Existing law authorizes the Committee on Dental Auxiliaries within the jurisdiction of the board to make recommendations with regard to the administration of the law regulating dental auxiliaries who are persons authorized to perform dental supportive procedures. Under existing law, this provision becomes inoperative on July 1, 1998, and is repealed on January 1, 1999.

This bill would extend these inoperative and repeal dates to July 1, ~~2002~~ 2004, and January 1, ~~2003~~ 2005, respectively.

Existing law authorizes the board to organize a standing committee to deal with auxiliary matters.

This bill would eliminate this authority of the board and would require, instead, that the committee be directly responsible for all matters concerning dental auxiliaries. The bill would set forth the duties and responsibilities of the committee in this regard.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 160 of the Business and*
2 *Professions Code is amended to read:*

3 160. The Chief and all investigators of the Division of
4 Investigation of the department and all investigators of
5 the Medical Board of California ~~and the Board of Dental~~

1 ~~Examiners~~ have the authority of peace officers while
2 engaged in exercising the powers granted or performing
3 the duties imposed upon them or the division in
4 investigating the laws administered by the various boards
5 comprising the department or commencing directly or
6 indirectly any criminal prosecution arising from any
7 investigation conducted under these laws. All persons
8 herein referred to shall be deemed to be acting within the
9 scope of employment with respect to all acts and matters
10 in this section set forth.

11 *SEC. 2.* Section 1601 of the Business and Professions
12 Code is amended to read:

13 1601. There is in the Department of Consumer Affairs
14 a Board of Dental Examiners of California in which the
15 administration of this chapter is vested. The board
16 consists of eight practicing dentists, one registered dental
17 hygienist, one registered dental assistant, and four public
18 members. The board shall be organized into standing
19 committees dealing with examinations, enforcement,
20 ~~auxiliary matters~~, and other subjects as the board deems
21 appropriate.

22 This section shall become inoperative on July 1, 2002
23 2004, and, as of January 1, 2003 2005, is repealed, unless a
24 later enacted statute, which becomes effective on or
25 before January 1, 2003 2005, deletes or extends the dates
26 on which it becomes inoperative and is repealed.

27 ~~SEC. 2.—~~

28 *SEC. 3.* Section 1616.5 of the Business and Professions
29 Code is amended to read:

30 1616.5. The board may appoint a person exempt from
31 civil service who shall be designated as an executive
32 officer and who shall exercise the powers and perform the
33 duties delegated by the board and vested in him or her by
34 this chapter.

35 This section shall become inoperative on July 1, 2002
36 2004, and, as of January 1, 2003 2005, is repealed, unless a
37 later enacted statute, which becomes effective on or
38 before January 1, 2003 2005, deletes or extends the dates
39 on which it becomes inoperative and is repealed.

40 ~~SEC. 3.—~~

1 SEC. 4. Section 1742 of the Business and Professions
2 Code is amended to read:

3 1742. (a) There is within the jurisdiction of the board
4 a Committee on Dental Auxiliaries.

5 ~~This~~

6 (b) *The Committee on Dental Auxiliaries shall have*
7 *the following areas of responsibility and duties:*

8 (1) *The committee shall have the following duties and*
9 *authority related to education programs and curriculum:*

10 (A) *Shall evaluate all dental auxiliary programs*
11 *applying for board approval, in accordance with board*
12 *rules governing the programs.*

13 (B) *May appoint board members to any evaluation*
14 *committee. Board members so appointed shall not make*
15 *a final decision on the issue of program or course*
16 *approval.*

17 (C) *Shall report and make recommendations to the*
18 *board as to whether a program or course qualifies for*
19 *approval. The board retains the final authority to grant or*
20 *deny approval to a program or course.*

21 (D) *Shall review and document any alleged*
22 *deficiencies that might warrant board action to withdraw*
23 *or revoke approval of a program or course, at the request*
24 *of the board.*

25 (E) *May review and document any alleged*
26 *deficiencies that might warrant board action to withdraw*
27 *or revoke approval of a program or course, at its own*
28 *initiation.*

29 (2) *The committee shall have the following duties and*
30 *authority related to applications:*

31 (A) *Shall review and evaluate all applications for*
32 *licensure in the various dental auxiliary categories to*
33 *ascertain whether a candidate meets the appropriate*
34 *licensing requirements specified by statute and board*
35 *regulations.*

36 (B) *Shall maintain application records, cashier*
37 *application fees, and perform any other ministerial tasks*
38 *as are incidental to the application process.*

39 (C) *May delegate any or all of the functions in this*
40 *paragraph to its staff.*

1 (D) Shall issue auxiliary licenses in all cases, except
2 where there is a question as to a licensing requirement.
3 The board retains final authority to interpret any
4 licensing requirement. If a question arises in the area of
5 interpreting any licensing requirement, it shall be
6 presented by the committee to the board for resolution.

7 (3) The committee shall have the following duties and
8 authority regarding examinations:

9 (A) Shall advise the board as to the type of license
10 examination it deems appropriate for the various dental
11 auxiliary license categories.

12 (B) Shall, at the direction of the board, develop or
13 cause to be developed, administer, or both, examinations
14 in accordance with the board's instructions and
15 periodically report to the board on the progress of those
16 examinations. The following shall apply to the
17 examination procedure:

18 (i) The examination shall be submitted to the board
19 for its approval prior to its initial administration.

20 (ii) Once an examination has been approved by the
21 board, no further approval is required unless a major
22 modification is made to the examination.

23 (iii) The committee shall report to the board on the
24 results of each examination and shall, where appropriate,
25 recommend pass points.

26 (iv) The board shall set pass points for all dental
27 auxiliary licensing examinations.

28 (C) May appoint board members to any examination
29 committee established pursuant to subparagraph (B).

30 (4) The committee shall periodically report and make
31 recommendations to the board concerning the level of
32 fees for dental auxiliaries and the need for any legislative
33 fee increase. However, the board retains final authority
34 to set all fees.

35 (5) The committee shall be responsible for all aspects
36 of the license renewal process, which shall be
37 accomplished in accordance with this chapter and board
38 regulations. The committee may delegate any or all of its
39 functions under this paragraph to its staff.

1 (6) *The committee shall have no authority with*
2 *respect to the approval of continuing education*
3 *providers; the board retains all of this authority.*

4 (7) *The committee shall advise the board as to*
5 *appropriate standards of conduct for auxiliaries, the*
6 *proper ordering of enforcement priorities, and any other*
7 *enforcement-related matters that the board may, in the*
8 *future, delegate to the committee. The board retains all*
9 *authority with respect to the enforcement actions,*
10 *including, but not limited to, complaint resolution,*
11 *investigation, and disciplinary action against auxiliaries.*

12 (8) *The committee shall have the following duties*
13 *regarding regulations:*

14 (A) *Shall review and evaluate all suggestions or*
15 *requests for regulatory changes related to dental*
16 *auxiliaries.*

17 (B) *Shall report and make recommendations to the*
18 *board, after consultation with departmental legal counsel*
19 *and the board's executive officer.*

20 (C) *Shall include in any report regarding a proposed*
21 *regulatory change, at a minimum, the specific language*
22 *of the proposed changes and the reasons for and facts*
23 *supporting the need for the change. The board has the*
24 *final rulemaking authority.*

25 (c) *This section shall become inoperative on July 1,*
26 *~~2002~~ 2004, and, as of January 1, ~~2003~~ 2005, is repealed,*
27 *unless a later enacted statute which becomes effective on*
28 *or before January 1, ~~2003~~ 2005, deletes or extends the*
29 *dates on which it becomes inoperative and is repealed.*

30 SEC. 5. *Section 830.3 of the Penal Code is amended to*
31 *read:*

32 830.3. *The following persons are peace officers whose*
33 *authority extends to any place in the state for the purpose*
34 *of performing their primary duty or when making an*
35 *arrest pursuant to Section 836 of the Penal Code as to any*
36 *public offense with respect to which there is immediate*
37 *danger to person or property, or of the escape of the*
38 *perpetrator of that offense, or pursuant to Section 8597 or*
39 *8598 of the Government Code. These peace officers may*

1 carry firearms only if authorized and under those terms
2 and conditions as specified by their employing agencies:

3 (a) Persons employed by the Division of Investigation
4 of the Department of Consumer Affairs and investigators
5 of the Medical Board of California ~~and the Board of~~
6 ~~Dental Examiners~~, who are designated by the Director of
7 Consumer Affairs, provided that the primary duty of
8 these peace officers shall be the enforcement of the law
9 as that duty is set forth in Section 160 of the Business and
10 Professions Code.

11 (b) Voluntary fire wardens designated by the Director
12 of Forestry and Fire Protection pursuant to Section 4156
13 of the Public Resources Code, provided that the primary
14 duty of these peace officers shall be the enforcement of
15 the law as that duty is set forth in Section 4156 of that code.

16 (c) Employees of the Department of Motor Vehicles
17 designated in Section 1655 of the Vehicle Code, provided
18 that the primary duty of these peace officers shall be the
19 enforcement of the law as that duty is set forth in Section
20 1655 of that code.

21 (d) Investigators of the California Horse Racing Board
22 designated by the board, provided that the primary duty
23 of these peace officers shall be the enforcement of
24 Chapter 4 (commencing with Section 19400) of Division
25 8 of the Business and Professions Code and Chapter 10
26 (commencing with Section 330) of Title 9 of Part 1 of this
27 code.

28 (e) The State Fire Marshal and assistant or deputy
29 state fire marshals appointed pursuant to Section 13103 of
30 the Health and Safety Code, provided that the primary
31 duty of these peace officers shall be the enforcement of
32 the law as that duty is set forth in Section 13104 of that
33 code.

34 (f) Inspectors of the food and drug section designated
35 by the chief pursuant to subdivision (a) of Section 106500
36 of the Health and Safety Code, provided that the primary
37 duty of these peace officers shall be the enforcement of
38 the law as that duty is set forth in Section 106500 of that
39 code.

1 (g) All investigators of the Division of Labor Standards
2 Enforcement designated by the Labor Commissioner,
3 provided that the primary duty of these peace officers
4 shall be enforcement of the law as prescribed in Section
5 95 of the Labor Code.

6 (h) All investigators of the State Departments of
7 Health Services, Social Services, Mental Health,
8 Developmental Services, and Alcohol and Drug
9 Programs, the Department of Toxic Substances Control,
10 and the Office of Statewide Health Planning and
11 Development, and the Public Employees' Retirement
12 System, provided that the primary duty of these peace
13 officers shall be the enforcement of the law relating to the
14 duties of his or her department, or office.
15 Notwithstanding any other provision of law, investigators
16 of the Public Employees' Retirement System shall not
17 carry firearms.

18 (i) The Chief of the Bureau of Fraudulent Claims of
19 the Department of Insurance and those investigators
20 designated by the chief, provided that the primary duty
21 of those investigators shall be enforcement of Section 550
22 of the Penal Code.

23 (j) Employees of the Department of Housing and
24 Community Development designated under Section
25 18023 of the Health and Safety Code, provided that the
26 primary duty of these peace officers shall be the
27 enforcement of the law as that duty is set forth in Section
28 18023 of that code.

29 (k) Investigators of the office of the Controller,
30 provided that the primary duty of these investigators
31 shall be the enforcement of the law relating to the duties
32 of that office. Notwithstanding any other law, except as
33 authorized by the Controller, the peace officers
34 designated pursuant to this subdivision shall not carry
35 firearms.

36 (l) Investigators of the Department of Corporations
37 designated by the Commissioner of Corporations,
38 provided that the primary duty of these investigators
39 shall be enforcement of the provisions of law
40 administered by the Department of Corporations.

1 Notwithstanding any other provision of law, the peace
2 officers designated pursuant to this subdivision shall not
3 carry firearms.

4 (m) Persons employed by the Contractors' State
5 License Board designated by the Director of Consumer
6 Affairs pursuant to Section 7011.5 of the Business and
7 Professions Code, provided that the primary duty of these
8 persons shall be the enforcement of the law as that duty
9 is set forth in Section 7011.5, and in Chapter 9
10 (commencing with Section 7000) of Division 3, of that
11 code. The Director of Consumer Affairs may designate as
12 peace officers not more than three persons who shall at
13 the time of their designation be assigned to the special
14 investigations unit of the board. Notwithstanding any
15 other provision of law, the persons designated pursuant
16 to this subdivision shall not carry firearms.

17 (n) The chief and coordinators of the Law
18 Enforcement Division of the Office of Emergency
19 Services.

20 (o) Investigators of the office of the Secretary of State
21 designated by the Secretary of State, provided that the
22 primary duty of these peace officers shall be the
23 enforcement of the law as prescribed in Chapter 3
24 (commencing with Section 8200) of Division 1 of Title 2
25 of, and Section 12172.5 of, the Government Code.
26 Notwithstanding any other provision of law, the peace
27 officers designated pursuant to this subdivision shall not
28 carry firearms.

29 (p) The Deputy Director for Security designated by
30 Section 8880.38 of the Government Code, and all lottery
31 security personnel assigned to the California State
32 Lottery and designated by the director, provided that the
33 primary duty of any of those peace officers shall be the
34 enforcement of the laws related to assuring the integrity,
35 honesty, and fairness of the operation and administration
36 of the California State Lottery.

37 (q) Investigators employed by the Investigation
38 Division of the Employment Development Department
39 designated by the director of the department, provided
40 that the primary duty of those peace officers shall be the

1 enforcement of the law as that duty is set forth in Section
2 317 of the Unemployment Insurance Code.

3 Notwithstanding any other provision of law, the peace
4 officers designated pursuant to this subdivision shall not
5 carry firearms.

6 (r) The chief and assistant chief of museum security
7 and safety of the California Science Center, as designated
8 by the executive director pursuant to Section 4108 of the
9 Food and Agricultural Code, provided that the primary
10 duty of those peace officers shall be the enforcement of
11 the law as that duty is set forth in Section 4108 of the Food
12 and Agricultural Code.

13 (s) Notwithstanding any other provision of this
14 section, a peace officer authorized by this section shall not
15 be authorized to carry firearms by his or her employing
16 agency until that agency has adopted a policy on the use
17 of deadly force by those peace officers, and until those
18 peace officers have been instructed in the employing
19 agency's policy on the use of deadly force.

20 Every peace officer authorized pursuant to this section
21 to carry firearms by his or her employing agency shall
22 qualify in the use of the firearms at least every six months.

